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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,420	12/30/2003	Jose L. Casillas	24-NS-5963-8	7853

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EXAMINER

PALABRICA, RICARDO J

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,420

Applicant(s)

CASILLAS ET AL.

Examiner

Rick Palabrica

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14, 17-25 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-25 and 27-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/30/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election with traverse of Group II, claims 23-25 and 27-32, in the reply filed on 11/19/04 is acknowledged. The traversal is on the ground(s) that: a) the use of the apparatus for practicing another process that the Examiner cited is covered by Applicant's process claim 27; and b) the search and examination of Groups I and II would not be a serious burden. This is not found persuasive. As to argument a), nowhere in the disclosure does it recite that the process cited by the Examiner is included in Applicant's claim 27. Also, the apparatus in Group I, can be configured to provide data for plant modifications required by normal equipment obsolescence instead of those required by the expansion of the licensed operating domain of claim 27. As to argument b), the two groups belong to different subclasses and the searches for the two groups would not be co-extensive.

Also, in applications claiming inventions in different statutory categories, as in the instant case, only a one-way distinctness is generally needed to support a restriction requirement (see MPEP 806.05(c)). Applicant did not traverse the distinctness of the process from the apparatus based on the fact that the claimed process can be practiced by hand.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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2. Claims 23-25 and 27-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 recites the limitation "the licensed operating domain" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 recites the limitations "the core recirculation system"" in line 2 and "the core recirculation system control components" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 30 recites the limitations "the control rod pattern", "the flow controls", "the pressure controls" and "the detection" in lines 2 and 3. There are insufficient antecedent bases for these limitations in the claim.

Claim 31 recites the limitation "the reactor process controls" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Bartos, "Pushing nuclear plants to their design power ratings," Power, May, 1993.

Bartos discloses a process for uprating a boiling water reactor that includes expanding the licensed operating domain (see p. 74, col. 2, lines 6+). This operating domain is characterized by a map of reactor power and core flow (see Fig. 3). His method includes providing: a) analysis and evaluations to generate a safety analysis report (see p. 73, last paragraph); b) licensing support being provided by the engineering team in the preparation of a license amendment (see p. 73, "Amendment preparation" and page 74, col. 3, last paragraph); c) technical consultation provided by the vendor, e.g., on system modifications (see p. 70, col. 2, item (6)), and the station engineering department on engineering items (see page 74, col. 3, last paragraph).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 703-306-5756. The examiner can normally be reached on 6:30-5:00, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Carone can be reached on 703-306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RJP
December 8, 2004

A handwritten signature in cursive script, appearing to read "R. P. Alsbach".